

111TH CONGRESS  
1ST SESSION

# H. R. 1026

To amend the procedures regarding military recruiter access to secondary school student recruiting information.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2009

Mr. HUNTER (for himself, Mr. AKIN, Mrs. BACHMANN, Mr. BARTLETT, Mr. BISHOP of Utah, Mrs. BLACKBURN, Mr. BRADY of Texas, Mr. BROWN of Georgia, Mr. BROWN of South Carolina, Mr. BURTON of Indiana, Ms. FALLIN, Mr. FORTENBERRY, Ms. FOXX, Mr. GINGREY of Georgia, Mr. HENSARLING, Mr. HOEKSTRA, Mr. SAM JOHNSON of Texas, Mr. KING of Iowa, Mr. KLINE of Minnesota, Mr. LAMBORN, Mrs. LUMMIS, Mr. McCAUL, Mr. McKEON, Mr. OLSON, Mr. PITTS, Mr. PRICE of Georgia, Mr. ROONEY, Mr. SCALISE, Mrs. SCHMIDT, Mr. WAMP, Mr. WESTMORELAND, Mr. BOEHNER, Mr. BILBRAY, Mr. FRANKS of Arizona, Mr. CALVERT, and Mr. CHAFFETZ) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the procedures regarding military recruiter access to secondary school student recruiting information.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Fairness for Military  
3 Recruiters Act”.

4 **SEC. 2. ACCESS TO STUDENT RECRUITING INFORMATION.**

5       (a) CHANGES TO THE ELEMENTARY AND SEC-  
6 ONDARY EDUCATION ACT OF 1965.—Section 9528(a) of  
7 the Elementary and Secondary Education Act of 1965 (20  
8 U.S.C. 7908(a)) is amended—

9           (1) by striking paragraphs (1) and (2) and in-  
10       serting the following:

11           “(1) ACCESS TO STUDENT RECRUITING INFOR-  
12       MATION.—Notwithstanding section 444(a)(5)(B) of  
13       the General Education Provisions Act, each local  
14       educational agency receiving assistance under this  
15       Act shall provide, upon a request made by a military  
16       recruiter or an institution of higher education, ac-  
17       cess to the name, address, and telephone listing of  
18       each secondary school student served by the local  
19       educational agency, unless the parent of such stu-  
20       dent has submitted the prior consent request under  
21       paragraph (2).

22           “(2) CONSENT.—

23           “(A) OPT-OUT PROCESS.—A parent of a  
24       secondary school student may submit a written  
25       request, to the local educational agency, that  
26       the student’s name, address, and telephone list-

ing not be released for purposes of paragraph (1) without prior written consent of the parent. Upon receiving such request, the local educational agency may not release the student's name, address, and telephone listing for such purposes without the prior written consent of the parent.

“(B) NOTIFICATION OF OPT-OUT PROCESS.—Each local educational agency shall notify the parents of the students served by the agency of the option to make a request described in subparagraph (A).”; and

(2) by adding at the end the following:

“(4) RULE OF CONSTRUCTION PROHIBITING OPT-IN PROCESSES.—Nothing in this subsection shall be construed to allow a local educational agency to withhold access to a student's name, address, and telephone listing from a military recruiter or institution of higher education by implementing an opt-in process or any other process other than the written consent request process under paragraph (2)(A).

“(5) PARENTAL CONSENT.—For purposes of this subsection, whenever a student has attained eighteen years of age, the permission or consent re-

1       quired of and the rights accorded to the parents of  
2       the student shall only be required of and accorded  
3       to the student.”.

4       (b) CHANGES TO TITLE 10 OF THE UNITED STATES  
5 CODE.—Section 503(c) of title 10, United States Code,  
6 is amended—

7           (1) by striking paragraph (1) and inserting the  
8       following: “(1)(A) Each local educational agency re-  
9       ceiving assistance under the Elementary and Sec-  
10      ondary Education Act of 1965—

11           “(i) shall provide to military recruiters the  
12      same access to secondary school students as is pro-  
13      vided generally to postsecondary educational institu-  
14      tions or to prospective employers of those students;  
15      and

16           “(ii) shall provide, upon a request made by a  
17      military recruiter for military recruiting purposes,  
18      access to the name, address, and telephone listing of  
19      each secondary school student served by the local  
20      educational agency, notwithstanding section  
21      444(a)(5)(B) of the General Education Provisions  
22      Act (20 U.S.C. 1232g(a)(5)(B)), unless the parent  
23      of such student has submitted the prior consent re-  
24      quest under subparagraph (B).

1       “(B)(i) The parent of a secondary school student may  
2 submit a written request, to the local educational agency,  
3 that the student’s name, address, and telephone listing not  
4 be released for purposes of subparagraph (A) without  
5 prior written parental consent. Upon receiving a request,  
6 the local educational agency may not release the student’s  
7 name, address, and telephone listing for such purposes  
8 without the prior written consent of the parent.

9       “(ii) Each local educational agency shall notify par-  
10 ents of the option to make a request described in clause  
11 (i).

12       “(C) Nothing in this paragraph shall be construed to  
13 allow a local educational agency to withhold access to a  
14 student’s name, address, and telephone listing from a mili-  
15 tary recruiter or institution of higher education by imple-  
16 menting an opt-in process or any other process other than  
17 the written consent request process under subparagraph  
18 (B)(i).

19       “(D) PARENTAL CONSENT.—For purposes of this  
20 paragraph, whenever a student has attained eighteen  
21 years of age, the permission or consent required of and  
22 the rights accorded to the parents of the student shall only  
23 be required of and accorded to the student.”;

24               (2) by striking paragraphs (2), (3), and (4) and  
25       inserting the following:

1 “(2)(A) If a local educational agency denies recruit-  
2 ing access to a military recruiter under this section, the  
3 Secretary shall notify—

4 “(i) the Governor of the State in which the  
5 local educational agency is located; and

6 “(ii) the Secretary of Education.

7 “(B) Upon receiving a notification under subpara-  
8 graph (A), the Secretary of Education—

9 “(i) shall, consistent with the provisions of part  
10 D of title IV of the General Education Provisions  
11 Act (20 U.S.C. 1234 et seq.), determine whether the  
12 local educational agency is failing to comply substan-  
13 tially with the requirements of this subsection; and

14 “(ii) upon determining that the local edu-  
15 cational agency has failed to comply substantially  
16 with such requirements, may impose a penalty, or  
17 enforce a remedy, available for a violation of section  
18 9528(a) of the Elementary and Secondary Edu-  
19 cation Act of 1965 (20 U.S.C. 7908(a)) in the same  
20 manner as such penalty or remedy would apply to a  
21 local educational agency that violated such section.”;

22 (3) by redesignating paragraphs (5) and (6) as  
23 paragraphs (3) and (4), respectively; and

24 (4) in paragraph (4) (as redesignated by para-  
25 graph (3) of this section)—

- 1 (A) by striking subparagraphs (C), (E),
- 2 and (F); and
- 3 (B) by redesignating subparagraph (D) as
- 4 subparagraph (C).

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